

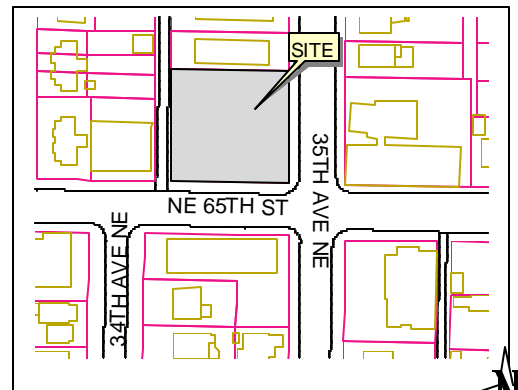


City of Seattle

Gregory J. Nickels, Mayor
Department of Planning and Development
D. M. Sugimura, Director

CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR OF
THE DEPARTMENT OF PLANNING AND DEVELOPMENT

Application Number: 3004504
Contact Person: Amanda Nations
Service Provider: ClearWire
Address of Proposal: 6501 35th Avenue NE



SUMMARY OF PROPOSED ACTION¹

Land Use Permit to approve a minor communication utility (Clearwire LLC) on the roof of an existing apartment and retail building. One antenna and two dishes will be located on the northerly array and two antennas and two dishes will be located on the southerly array. The equipment cabinet will be located in the basement garage.

The following approval is required:

SEPA - Environmental Determination (Seattle Municipal Code Chapter 25.05)

SEPA DETERMINATION: ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS

☒ DNS with conditions

☐ DNS involving non-exempt grading or demolition or involving another agency with jurisdiction.

BACKGROUND INFORMATION

Site Description

The site is zoned Neighborhood Commercial 1 with a 30-foot height limit (NC-1/30) and developed with an apartment and retail building. NE 65th Street abuts to the south of the rectangular shaped corner lot and 35th Avenue NE abuts to the east. The site slopes down from east to west.

¹ The project description is different from what was stated in the public notice. The public notice describes three antennas on each array. The minor change in proposal description is not substantial and does not require another public notification. Additionally, all the technical information submitted is based upon the current proposal description.

Proposal Description

The applicants are proposing to locate two separate antenna and dish arrays on the roof of an existing apartment and retail building. One antenna and two dishes will be located on the northerly array and two antennas and two dishes will be located on the southerly array. The equipment cabinet will be located in the basement garage. Both arrays will be completely concealed within a camouflaging shroud extending to a maximum height of 49 feet above grade. The current height of the apartment building is approximately 34 feet above grade.

Surrounding Area Description

The properties directly abutting NE 65th Street to the south and north, forming a corridor along NE 65th Street, are zoned NC-1/30 and developed with a mix of multi-family and commercial uses. The corridor is bound to the east at approximately the half-block between 35th and 36th and to the west at approximately the half-block between 31st and 32nd. The areas to the south, east and west of the corridor are zoned Single-Family 5000 (SF-5000) and developed primarily with single-family homes. The areas to the north of the corridor are zoned Lowrise 2 (L-2) and developed primarily with multi-family structures.

Public Comment

The application was deemed to be complete on April 24, 2006 and a notice of application was sent on April 27, 2006. The public comment period ended on May 10, 2006. No public comments were received through the public notice process.

SEPA ANALYSIS

The initial disclosure of the potential impacts from this project was made in the environmental checklist submitted by the applicant dated March 24, 2006. The information in the checklist, applicant's statement of Federal Communication Commission Compliance, supplemental information and the experience of the lead agency with the review of similar projects form the basis for this analysis and decision.

Many environmental concerns have been addressed in the City's codes and regulations. The SEPA Overview Policy (SMC 25.05.665) discusses the relationship between the City's code/policies and environmental review. The Overview Policy states, in part, "*Where City regulations have been adopted to address an environmental impact, it shall be presumed that such regulation are adequate to achieve sufficient mitigation*" subject to some limitations. It may be appropriate to deny or mitigate a project based on adverse environmental impacts in certain circumstances as discussed in SMC 25.05.665 D1-7. In consideration of these policies, a more detailed discussion of some of the potential impacts is appropriate.

Short - Term Impacts

The following temporary or construction-related impacts are expected; decreased air quality due to suspended particulate from building activities and hydrocarbon emissions from construction vehicles and equipment; increased traffic and demand for parking from construction equipment and personnel; consumption of renewable and non-renewable resources. These impacts are expected to be very minor

in scope and of very short duration considering the installation process. No conditioning pursuant to SEPA is warranted.

Construction and Noise Impacts

Codes and development regulations applicable to this proposal will provide sufficient mitigation for most impacts. The initial installation of the antennas and construction of the equipment room may include loud equipment and activities. This construction activity may have an adverse impact on nearby residences. Due to the close proximity of nearby residences, the Department finds that the limitations of the Noise Ordinance are inadequate to appropriately mitigate the adverse noise impacts associated with the proposal. The SEPA Construction Impact policies, (SMC 25.05.675.B) allow the Director to limit the hours of construction to mitigate adverse noise and other construction-related impacts. Therefore, the proposal is conditioned to limit construction activity to non-holiday weekday hours between 7:30 a.m. and 6:00 p.m.

Long - Term Impacts

Long-term or use-related impacts are also anticipated as a result of approval of this proposal, namely increases in demand for energy and increased generation of electromagnetic radiation emission. These long-term impacts are not considered significant or of sufficient adversity to warrant mitigation. However, due to the public concerns expressed about electromagnetic radiation, this impact is further discussed below.

The Federal Communications Commission (FCC) has been given exclusive jurisdiction to regulate wireless facilities based on the effects of electromagnetic radiation emissions. The FCC, the City and County have adopted standards addressing maximum permissible exposure (MPE) limits for these facilities to ensure the health and safety of the general public. The applicant has submitted a "Statement of Federal Communication Commission Compliance for Personal Wireless Service Facility" and an accompanying "Affidavit of Qualification and Certification" for this proposed facility giving the calculations of radio frequency power density expected from this proposal and attesting to the qualifications of the Professional Engineer who made this assessment. This complies with the Seattle Municipal Code Section 25.10.300 that contains Electromagnetic Radiation standards with which the proposal must conform. The Department's experience with review of this type of installation is that the EMR emissions constitute a small fraction of that permitted under both Federal standards and the standards of SMC 25.10.300 and therefore, pose no threat to public health. Warning signs at every point of access to the transmitting antenna shall be posted with information of the existence of radiofrequency radiation.

The City is not aware of interference complaints from the operation of other installations from persons operating electronic equipment, including sensitive medical devices (e.g. - pacemakers). The Land Use Code (SMC 23.57.012C2) requires that warning signs be posted at every point of access to the antennas noting the presence of electromagnetic radiation. In the event that any interference were to result from this proposal in nearby homes and businesses or in clinical medical applications, the FCC has authority to require the facility to cease operation until the issue is resolved.

The information discussed above, review of literature regarding these facilities, and the experience of the Departments of Planning and Development and Public Health with the review of similar projects form

the basis for this analysis and decision. The Department concludes that no mitigation for electromagnetic radiation emission impacts pursuant to SEPA policies is warranted.

Other long term impacts such as height, bulk and scale, traffic, and air quality are minor and adequately mitigated by the City's existing codes and ordinances.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(C).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS - SEPA

1. The owner(s) and/or responsible party(s) shall ensure the proposed shroud around the antennas and dishes will match the color and design of other rooftop features.
2. The owner(s) and/or responsible party(s) shall ensure the proposed shroud will be properly maintained to visually screen the antennas and dishes for the life of the project.

During Construction

The following condition to be enforced during construction shall be posted at the site in a location on the property line that is visible and accessible to the public and to construction personnel from the street right-of-way. If more than one street abuts the site, conditions shall be posted at each street. The conditions will be affixed to placards prepared by DPD. The placards will be issued along with the building permit set of plans. The placards shall be laminated with clear plastic or other waterproofing material and shall remain posted on-site for the duration of the construction.

3. In order to further mitigate the noise impacts during construction, the hours of construction activity shall be limited to non-holiday weekdays between the hours of 7:30 a.m. and 6:00 p.m. This condition may be modified by DPD to allow work of an emergency nature or allow low noise interior work. This condition may also be modified to permit low noise exterior work after approval from the Land Use Planner.

Signature: (signature on file) Date: August 24, 2006
Mark Taylor, Land Use Planner

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